IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.230 OF 2001

IN

COMPANY PETITION NO.406 OF 2000

...

Vatsa Corporation Ltd. ...Appellants

v/s.

Eastern Ceremcis Ltd. ...Respondents

...

Mr.D.V.Merchant with Ms.Dolly Kantharia i/b Shah & Sanghvi for the Appellants.

Mr.A.J.Bookwala with Mr.Raj Preira i/b Pandya Gandhi & Co. for Respondents.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 23RD AUGUST, 2007

P.C.:

This Appeal is directed against the order passed by the learned single Judge of this court dated 25th January, 2001 in company petition No.406 of 2000.

2. We have heard the learned counsel for both sides. It is apparent from the order that the Appellant/company had filed the civil suit and the subject matter of that civil suit was the Memorandum of Understanding, which is also the subject matter of the company petition. There were certain findings recorded at the interim stage for deciding the interim application in the suit of the Appellant/company. Those findings have been confirmed by all the courts upto the Supreme Court. Perusal of the order of the learned single Judge shows that all that the learned single Judge has done is that he has accepted the findings which were recorded in the order passed in the civil suit filed by the Company and has directed the company to deposit the amount in court, failing which the company petition shall stand admitted.

3. After having heard the learned Counsel for both sides, we see no reason to interfere with the order of the learned single Judge, because we do not find any fault in the order of the learned single Judge. The learned single Judge relied on the findings recorded in the suit which had the same subject matter. Now, civil suit has already been filed by the Respondent, who was Petitioner in the company petition. The learned single Judge has also observed, if the amount is deposited pursuant to his order, the amount will be held to the credit of that suit.

4. Taking overall view of the matter, therefore, in our opinion, it will not be appropriate to interfere with the order of the learned single Judge. In our opinion, following order would meet the ends of justice.

O R D E R

(i) Time to deposit the amount is extended by eight weeks from today. In case the amount is deposited by the Appellant, it will be held to the credit of Suit

No.790 of 2000.

(ii) On the amount being deposited, both sides will be entitled to make an application in Suit No.790 of 2000 for appropriate orders.

(iii) Disposal of that amount will be governed by the order that may be passed in Suit No.790 of 2000.

(iv) In case the amount as per the order of the learned single Judge is not deposited within extended time, the Company Petition as directed by the learned single Judge shall stand admitted.

(v) Appeal disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)